

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
MEDFORD DIVISION

JAMES MICHAEL DARR, JR.,

Civ. No. 3:16-cv-01941-CL

Plaintiff,

ORDER

v.

COMMISSIONER, SOCIAL SECURITY
ADMINISTRATION,

Defendant.

CLARKE, Magistrate Judge.

This case comes before the Court on a motion for attorney fees (#34) under Social Security Act § 206(b)(1) and 42 U.S.C. § 406(b)(1) in the amount of \$11,546.17, which will be reduced by the return of the Equal Access to Justice fee of \$6,118.47. Full consent to magistrate jurisdiction was entered on May 15, 2017. (#17).

The Commissioner does not oppose the granting of fees in this case, but raises a discrepancy in the amount sought. Based on the Program Operations Manual System (POMS) and other regulations, Plaintiff was entitled to past due benefits for the period March 2013 through April 2018, not March 2013 through May 2019 as Plaintiff claims. Thus, Plaintiff's 406(b) fees would amount to \$9,778.67. Plaintiff's attorney did not respond to the Commissioner's correction of the record, and the Court finds he has conceded the issue.

Having reviewed the proceedings and the amount of fees sought, the Court concludes that Plaintiff's counsel is entitled to the fees requested; therefore, the motion is GRANTED, but for the amount proposed by the Commissioner. The Court authorizes and awards 406(b) attorney fees of \$9,778.77 which is being withheld by the Commissioner, to be paid directly to attorney HOWARD D. OLINSKY. Upon receipt of payment, plaintiff's counsel shall refund \$6,118.47 to Mr. Darr.

DATED this 22 day of April, 2020.



MARK D. CLARKE
United States Magistrate Judge